A Syntactic Study of Discontinuity in the English Version of Selected Iraqi Legal Texts

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Abstract

Syntactic discontinuity is a grammatical phenomenon in which a constituent of a sentence is split into two parts due to the insertion of an element which is not part of it or the movement of a constituent to a position which is not its canonical one. Sentences with syntactic discontinuity convey the same literal meaning given by them without it. Thus, legislators manipulate such constituents in Legislations since they offer them various styles of writing which may help to express the Legislations clearly and adequately. Hence, the present study attempts to test the hypotheses that syntactic discontinuities are varied and frequently used in legal texts and the sentences with syntactic discontinuity have specific structural characteristics. For the purpose of testing these hypotheses, the official English versions of ten Iraqi legal texts is issued between 1999- 2002.

To find out the frequency of occurrence of syntactic discontinuity in the accurances selected texts, the study includes calculating their rates.

Analysis of the data has shown that five types of syntactic discontinuity are used by legislators. The study concludes that syntactic discontinuities are widely used, i.e. (118) times, in the analysed texts; this is so due to the need for long sentences which involve many details to make the Law as clear and interpretable as possible to the average readers as well as to the specialists. On the basis of the conclusions a number of suggestions have been proposed. These can be of assistance to the specialists as well as the average reader who needs to understand and correctly interpret the legal texts.

مستخلص البحث

القطع النحوي هو ظاهرة نحوية تحدث نتيجة كون احد مكونات الجملة مقطوع إلى قسمين بسبب إدخال عنصر لا يشكل جزءا من ذلك المكون وقد يحدث نتيجة لوضع احد مكونات الجملة في موقع مختلف عن موقعه المعتاد مما يؤدي الى وجود هذه الظاهرة. تعطي المكونات ذات التراكيب غير المتصلة نفس المعنى الذي تعطيه المتصلة منها، ولذلك يوظف القانونيون مثل هذه المكونات لكونها تمنحهم أساليب متنوعة في الكتابة للتعبير عن التشريعات القانونية بوضوح وكفاءة. لذلك تحاول الدراسة الحالية اختبار الفرضية التي تنص على إن المكونات ذات القطع النحوي متنوعة ومتكررة في النصوص القانونية وان الجمل المتضمنة قطع نحوي لها تكوينات قواعدية متميزة. ولغرض اختبار هذه الفرضية تم اختيارعشرة نصوص رسمية باللغة الانكليزية للقانون العراقي بصورة عشوائية للفترة من 1999 الى 2002. ولاكتشاف تكرار حدوث ظاهرة القطع النحوي في النصوص المختارة، تتضمن الدراسة حساب معدل حدوثها. وقد اظهر تحليل البيانات ان المشرعين استعملوا خمسة انواع من القطع النحوي وبشكل واسع (118) مرة . استنتجت الدراسة ان الاستعمال الواسع لظاهرة القطع النحوي في النصوص القانونية يعود الى الحاجة الى جمل طويلة نسبيا وتتضمن الكثير من االتفاصيل لجعل النص القانوني واضحا وسهل التفسير قدر الامكان للقارئ العادي وللمختصين بالقانون. وعلى اساس هذه النتائج تم تقديم عدة مقترحات قد تكون ذات فائدة للمختصين بالعمل القانوني بالاضافة الى الاشخاص العاديين الذين يحتاجون لفهم وتفسير النصوص القانونية بشكل صحيح.

1. Introduction

Any community has to have its set of laws to live, communicate and interact, whenever these laws are broken, there is a consequence to such behaviour which is previously agreed upon by the community. The importance of such rules leads to the necessity of use specific language to be as precise and interpretable as possible. Legal language is regarded as a genre in itself. Richards and Schmidt (2012:245) defines the genre as a kind of discourse which occurs in "a particular setting" and has special and distinctive patterns of structure and organization. Legal discourse is often characterized in terms of its high and complex nominal expressions, heavy embeddings, and its lengthy texts. Consequently, legal language has achieved a certain degree of notoriety due to the complexities of its lexico-grammatical structures that affect the reading and understanding of legal texts (Bhatia, 1993)

This study is an attempt to achieve a research that has not been tackled previously in analyzing discontinuity in the language of the Iraqi law. Despite the wide variety of this register, i.e. register of law, the present study aims at analyzing the syntactic and textual features that characterize the Iraqi legal texts, which are issued by the Ministry of Justice.

2. Syntactic Discontinuity

Many definitions have been presented to determine the meaning of the term syntactic discontinuity. Akmajian et al (2001:189) State that discontinuous dependencies are quite common in human language and that in natural languages the relation between words cannot be measured depending on the adjacency between the items within the same sentence but there are some items which are "connected (in some sense), related or dependent even when they are not adjacent."

In grammatical analysis, discontinuity refers to the separation of a construction elements by the insertion of "another grammatical unit". (Crystal, 2008:147) While Crystal (1995:231) states that in English, there are several acceptable orders which do not change the meaning of the sentence but they" convey several important differences of style and emphasis." The change in word order may result either in an unacceptable sentence or a sentence with special meaning. Leech and Short (1981:121) consider language as "a code, it is a complexly ill-defined code, adaptable to the innovative skill of its users. "

Although a variety of syntactic discontinuity does exist in the English language, this study is limited to those discontinuities that, when split up by an embedded element, do not change their syntactic relations with their heads (McCawley, 1982: 94), i.e. those that the order of their components are changed not their syntactic relations. These include discontinuous noun phrase, discontinuous verb phrase as well as the discontinuities which involve the movement of whole constructions to new positions which are not their canonical ones.

- Fronting: it is one of the types of discontinuity in which the speaker or writer mentions the most important part of the text first without paying much attention to its canonical position.

1- a. *He would really hate to discuss* ***that*.**

b. ***That*** *he would really hate to discuss*. (the object of the sentence is fronted).

(*that*) is a deictic expression which is supposed to be known to the participant in the discourse and its fronting leads to highlight its importance.

2- a. *You call it* ***happiness*.**

b. ***Happiness*** *you call it*.

(*happiness)* in (2-a) is the complement of the object (it). In (2-b), the same word is fronted from its canonical position to one which is unpredictable, i.e. at the beginning of the sentence to achieve front- focus and highlights its importance in the sentence. With the change of its position, its function does not change. So the construction of the sentence has changed from SVOC to CSVO.

- postposing: it is the second type of discontinuity which, on the contrary of fronting, it involves the postponement of specific elements within the sentence. Huddleston (2007: 256) states that "postposing involves putting an element at or near the end of the clause rather than in the earlier position that would be its default place." This process occurs for grammatical requirements. Quirk et al (1985:1209) state that the direct object or indirect object may be postponed "where end-focus or end-weight is required" within a specific context. Richards and Schmidt (2010:213) state that "heavy" elements are more convenient to be postponed to the end of a sentence than the "light" ones.

3- a. *He met the woman yesterday*.

b. *He met yesterday* ***the woman with the big umbrella***.

When the object is presented in a simple noun phrase form, i.e. (the woman), it is used in its canonical position which is after the verb (met) as in (3-a), but when its form is a complex noun phrase, it is delayed towards the end to achieve end-weight just like sentence (3-b).

- **Extraposition**: is another type of discontinuity which involves the changing of the position of one of the elements (clausal element) of the sentence to one which is at the end of it and this element is either replaced by a dummy (it) or an existential (there) for stylistic and emphatic purposes. Huddleston and Pullum (2007: 200) define extraposition as "a clause construction which prototypically has a dummy (it) as subject and a postverbal subordinate clause." According to Huddleston and Pullum (ibid: 299) a dummy (it) is "A meaningless word required in some constructions to satisfy a syntactic requirement." For example,

4- a. ***That he missed the plain*** *was unfortunate*.

b. ***It*** *was unfortunate* ***that he missed the plain***.

The relative clause in (4-a) functions as the subject of the sentence, while in (4-b) the relative clause functions as an extraposed subject while the dummy (It) functions as the subject. In the new version of the sentence, the subject is extraposed in (4-b) to achieve end-weight principle and a grammatical requirement. The version of the sentence with extraposed subject is a"much more frequent" than the other basic version. Basically, there are two types of extraposition:

a- **Subject extraposition**: clauses with a subordinate clause subject generally have variants with the subordinate clause at the end and a dummy it as subject.

5- a. ***To give up now*** *would be a mistake*.

b. ***It*** *would be a mistake* ***to give up now***.

In (5-b) (it) fills the subject position and the subordinate clause is extraposed to the end of the sentence. On the other hand, in interrogatives it follows the operator as in (5-c)

c. *Would* ***it*** *be a mistake* ***to give up now***?

(to give up now) is an extraposed subject, so (it) is not the subject of the sentence but it is "an element in an extraposed position" which resembles the subject in the basic syntactic version.(ibid: 147)

Wekker and Haegeman (1996:138) state that the influence of the use of it-extraposition is that "the heavy subject clause is moved into focus position at the end of the sentence."

b- **Internal complement extraposition**: In this type of extraposition, the extraposed element is one of the internal constructions of the sentence, i.e. an object, a complement, etc. Huddleston and Pullum (2007:248) state that "extraposition of an internal complements is found predominantly in complex-transitive constructions." The complex- transitive constructions involve SVOA and SVOC. In such cases the extraposition is obligatory.

6- a. *They put* ***the idea of her being a liar*** *in his head*.

b. *They put* ***it*** *in his head* ***the idea of her being a liar***.

In (6-b) the -ing clause, which functions as the object of the verb (*put*), is extraposed after the adverb at the end of the sentence to give it more focus by receiving the end-focus of the sentence.

- **Discontinuous Noun Phrase**: in some constructions, it is not necessary to postpone full parts of the clause to apply the end-focus or end-weight principles, only part of an element will achieve these principles. The most common part is the postmodification of the noun phrase.

7- a. *I met* ***a woman carrying a crying baby*** *this evening*.

b. *I met* ***a woman*** *this evening* ***carrying a crying baby*****.**

(a woman carrying a crying baby) is the noun phrase whose function is the object of the verb (*met*) in (7-a). While in (7-b) it represents a discontinuous noun phrase with the insertion of the adverbial (*this evening*) between its constructions. The preposed adverbial has led to put the end-focus on the -ing clause which modifies the head (***woman***) of the noun phrase.

- **Other Discontinuities**: there are other types of discontinuities which are used less than the previously mentioned ones. Quirk et al (1985:1400) state that there are elements other than the NPs which undergo discontinuity as a result of postponement.

8- *They were* ***fond****, to some extent,* ***of Bach's late works***.

In (8), discontinuity is achieved by the insertion of degree adverbials within the adjective complementation. Such insertion with parenthetic expressions leads to discontinuity which influences the style and elegance of the sentence.

9- a. *They worked hard* ***without any bonus*** *for the most part*.

b. *They worked hard,* ***without*** *for the most part* ***any bonus***.

Discontinuity of a prepositional phrase is another type of discontinuity. In (9-b), the prepositional phrase is a discontinuous constituent due to the insertion of the other prepositional phrase between the preposition (***without***) and the complement.

10- *He* ***did*** *indeed* ***find*** *a solution*.

The use of discontinuous verb phrase in (10) is mainly used for emphasis. Instead of saying (*He found a solution indeed*), sentence (10) is much more emphasized with the use of the operator and the adverbial between the operator and the main verb.

3. Legal Texts

Legal texts are designed to be applied to all people and at all times apart from some amendments made now and then. It follows that they should be as free from vagueness and ambiguity as possible and as near to simplicity and intelligibility as possible. Since “Language and law pervade human experience. Just about any human experience can be examined by studying either its linguistic or legal aspects. One might even venture to say that language and law are fundamental to what it means to be a human being.”(Chaski, Language in the Real World.2010:181)

It is known that the world's first codified legal system began in Iraq. Iraq’s legal system, like everything else in its agitated history, has been impacted by a variety of cultures and countries which sought to assert influence over its development. Therefore, to fully understand the legal culture of modern Iraq, one must step back to look beyond territory and time. Hunt (2005:18) states that “about 2400 B.C.E., when King Urukagina ascended to the throne. He instituted a series of reforms designed to protect individual rights. Urukagina's reforms have set the stage for Hammurabi to develop the world's first legal code.” On the other hand, Hammurabi (1792-1750 B.C.E.) is best known for his legal code published in “the thirty-ninth year of his reign”, which encompassed civil, criminal, and commercial laws and have become the basis for modern law.(ibid:23)

During the Ottoman reign, Hunt (ibid: 113) states that “Sultan Sulaiman the Magnificent (1520-1566) who conquered Baghdad in 1534 introduced Ottoman rule to Mesopotamia. He was famous for his law codes, which combined Islamic religious law and everyday legal issues. Their legal system was based on the sharia, Islamic law derived from the Quran.” Throughout history, wars and invasions were erupting everywhere and thus there was an urgent need for a legal system that could organize human life and preserve their civil rights.

In the modern era, the Official Gazette is the Iraqi quality newspaper edited in Baghdad. It is a weekly newspaper published by the Ministry of

Justice. This newspaper contains laws, resolutions, orders, regulations, amendments, instructions, etc. It has been the official source for the laws and resolutions passed by the Council of Representatives of Iraq since August 1922. Article 125 of the Constitution declares that laws shall be published in the gazette and shall take effect on the date of their publication, unless stipulated otherwise. It is published by the Ministry of Justice. Al-Alusy (2012: 6) states that the Official Gazette was published three times a week temporarily. It included not only laws and legislative materials but also decisions of courts, advertisements and even social and political matters. Since its publication for the first time, it was published in Arabic and English. It is important to point out that it is not an issue by issue translation, but rather a selection of laws in translation cross referenced to the original Arabic issue. The last edition published before the downfall of the Iraqi Government was no.(3976) in 31 March 2003 which contained the law to establish a board for the 'Saddam Institute for the Study of the Quran and al-Sunna', Law No. (14) of 2003. After 2004, the Official Gazette was issued in Arabic only.

Dealing with the legal texts as a genre which is known by its unique and heavy use of discontinuous constructions, this study is mainly concerned with analysing this phenomenon syntactically to find out which type of discontinuity is mainly used in the English version of the Iraqi legal texts and the influence of using discontinuity on those texts.

4. Syntactic Transformations

There are different types of syntactic discontinuity that are used in the analysed legal texts. Table (1) presents the distributions of the different types of discontinuity which have been identified in the analysed Iraqi Legal texts. Syntactic Discontinuity is widely used in the analysed texts, i.e. about (118) occurrences. It is noticed that some types of discontinuity have been used extensively like subject extraposition in comparison with other types which have not been used at all, like internal complement extraposition. Another

point which has to be highlighted is that there are specific Laws which include discontinuity among its constructions more than other Laws. It is clear that the legislator tends to use syntactic discontinuity when the Law involves many details and all the details have to be gathered and specified within one sentence. Some items of the Laws involve more than one discontinuous construction.

11- “***It*** *will not be granted* ***a new passport*** *to whom passed a legal judgment by incrimination according to Para. (A) of this Item unless after passing one year beginning from the date of issuance the mentioned verdict and the secretary of President of the Republic* ***has the right*** *in the cases that he considers thereof to approve* ***for granting him a new passport prior of termination the mentioned period***.”(Law No.(32) of 1999, Article (10), Fifthly, (C))

In (11), there are two cases of syntactic discontinuity; extraposed subject whose position is filled by an empty (***it***) and discontinuous noun phrase which undergoes discontinuity due to the insertion of the adverbial.

Table (1) The Frequency of Syntactic Discontinuity Types in the Analysed Iraqi Legal Texts

	SD Types					
Laws	**Fronting**	**Postposing**	**Extraposition**		**Discontinuous NP**	**Other Discontinuities**
			It	**There**		

No. (29) of 2002	1	0	0	1	0	0
No. (1) of 2002	6	2	0	0	0	0
No. (49) of 2001	2	3	6	3	0	0
No. (29) of 2001	1	1	0	2	1	0
No. (51) of 2000	4	12	3	4	1	0
No. (45) of 2000	2	0	1	1	2	1
No. (17) of 2000	5	2	8	2	3	1
No. (6) of 2000	3	2	1	2	0	1
No. (36) of 1999	2	3	0	2	1	0
No. (32) of 1999	2	3	6	6	1	2
Total	**28**	**28**	**25**	**23**	**9**	**5**

12- “***If the coercion mentioned in the two Articles (422) and (423) or the torture mentioned in Para (B) of Article (421) has led to the death of the kidnapped****, the punishment shall be death sentence.*” (Law No. (1) of 2002, Article 424)

In (12) above, the occurrence of the subordinate clause (***If the coercion mentioned in the two Articles (422) and (423) or the torture mentioned in Para (B) of Article (421) has led to the death of the kidnapped***), which functions as a conditional clause for the main clause, before the main clause (*the punishment shall be death sentence*) caused discontinuity because of the fronting of the subordinate clause. It is fronted to get front- focus since it is the information which is already given placing the main clause at the end to get the end-focus and the emphasis of the new information.

13- *A committee* ***by a decision from Minister of Labour and Social Affairs*** *shall be formed to fix the minimum of the wages*….” (Law No. (17) of 2000, Article (5), Firstly)

The insertion of the prepositional phrase (***by a decision from Minister of Labour and Social Affairs***) whose function is adverbial between the subject and the verb phrase of the sentence results in discontinuity. The adverbial is preposed to pinpoint its importance. Despite the use of passive form which highlights the importance of the committee which was the object in the active form, but still the noun phrase (***by a decision from Minister of Labour and Social Affairs*)** is important, too. The verb phrase is postposed to let the focus fall on two important noun phrases; i.e. (*A Committee*) and (***by a decision from Minister of Labour and Social Affairs***)

14- "***There*** *shall be admitted in the school* ***the students who failed two successive years in their classes in the intermediate or the preparatory study and the students their age have been exceeded the legal age and they did not complete the intermediate or the preparatory study and they have no right to join the schools affiliated to the Ministry of Education***." (Law No. (29) of 2002, Article (4))

In (14), the extraposed subject is a complex noun phrase which due to its structure has been delayed to get end-weight as well as end-focus taking into consideration that the extraposed subject is a heavily structured complex-compound sentence.

15- "***The Quorum*** *shall not be complete* ***in sessions of the Diwan*** *unless by attendance of its members and its decision shall be taken of one accord or by majority*." (Law No. (6) of 2001, Article (9), Thirdly,(2))

As it is mentioned previously discontinuity can be adopted to noun phrases which are heavily constructed. In (15), the noun phrase consists of the following:-

<u>Definite Article</u> + <u>Head</u> + <u>PP functions as post modifier</u>

The + *Quorum* + *in sessions of the Diwan*

The prepositional phrase (***in sessions of the Diwan***) which functions as the post modifier of the head of the noun phrase (***Quorum***) is cut by the insertion of verb phrase and subject complement (*shall not be complete*). The delayed prepositional phrase gets end-focus in its new position in addition to the front focus on the head. So the focus in this sentence is distributed mainly on the noun phrase.

16- "*The physician, Dentist and the pharmacist,* ***may****, after finishing requirements of the medical gradation* ***select*** *the branch he wants to get training in it from the branches defined by the consultative committee concerned.*" (Law No. (6) of 2000,Article (5))

Sentence (16) represents discontinuous verb phrases which become discontinuous because of the insertion of the adverbial clause between the operator and the main verb. This insertion takes place due to the dependence of the writer of the law on the original version of the law which is in Arabic. The Arabic version, as it is noticed in the study, includes the preposition of the adverbial before the verb of the sentence.

5. Syntactic Features

At this level, the analysis is restricted to the grammatical features of the sentences, clause types and verb phrases. The syntactic analysis is applied according to Quirk et al (1985) model in A Comprehensive Grammar of the English Language.

The following procedures are followed in the analysis:

a- **Sentence Level**

Sentences are identified according to traditional definition of sentences, as a series of words that begin with a capital letter and end with a full stop. Sentences and clauses are analysed according to the following aspects:

- Length

The length of sentences which involves discontinuity is calculated in terms of the number of words in each sentence. The number of words is divided by the number of sentences which contain discontinuity to determine the approximate length of such sentences in legal texts. The corpus that formulates the present study consists of sentences analysed in terms of the number of words, sentences and average sentence length. The total number of sentences with syntactic discontinuity is (118). These sentences contain about (3587) words. The average of the sentences length is (30.4) words in each sentence. This indicates that the sentences in the analysed texts tend to be long. In fact some of them are very long since much information and details conveyed in long sentences and the legal texts involve many elaborations and details to make the laws as clear as possible and to disambiguate any information within the law. Taking into consideration that sometimes too long sentences could be misleading

-Complexity

The frequency and distribution of sentence types according to complexity have been identified and classified according to the fact that sentence's complexity can be classified into four groups, simple, complex, compound and complex-compound. The study reveals that complex-compound sentences are the most frequently used type. They constitute more than 34% of the total number of sentences of the corpus, complex sentences constitute 27.1% of the total number of sentences, while compound sentences constitute 10.8 %, and simple sentences constitute 27.1% of the total number of sentences.

b- Clause Level

Clauses with discontinuity are classified into two divisions, main and subordinate clauses. The researcher has found that main clauses have a higher frequency of occurrence and distribution about (79.2%) than the subordinate clauses whose frequency is about (20.8%). This observation is evident for the Iraqi legal texts tendency towards simplicity and clarity.

6. Conclusions

Legal language has specific lexical and syntactic characteristics which distinguish it from other types. The use of unique lexical items, the preference of longer expressions over shorter ones, and the dependence on complex structures instead of simple ones have led to the distinguished and sometimes difficult to understand legal texts. Syntactic discontinuity as a phenomenon is used widely, i.e. (118) times in the analysed texts which pinpoints that it is one of the permanent features in legal texts. On the basis of the results obtained from the analysis of the data of this study, the following conclusions are drawn:

1. Sentences with syntactic discontinuity structures place a heavy burden on the part of readers who always seek clarity of information; the use of such structures demands the readers to concentrate and rethink well to remove any ambiguity that may be created by those constituents, and to comprehend the intended ideas of the legislators. Thus, legislators tend to use syntactic discontinuity frequently to avoid making ambiguity and to make sure that the laws are easily understood.

2. Discontinuous noun phrases convey as much information as possible since legislators can use pre-and post-modifiers that help them add all the needed information to introduce clear and direct ideas. Thus, within the discontinuous noun phrases legislators use various types of clauses and phrases that convey the needed information.

3. The legislators tend to use syntactic discontinuity more than once in the same sentence in the law due to their need to present a text which is as clear and comprehensive as possible.

4. The legislators sometimes use syntactic discontinuity for numerical purposes and to save space and avoid repetition in the Legal Texts.

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